

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of

Confirmation No. 3062

VAN DER HEYDEN et al.

Atty. Ref.: 4662-2

Appln. No. 10/525,959

T.C. / Art Unit: 1654

Filed: February 28, 2005

Examiner: M.A. Audet

FOR: NUTRITIONAL AND THERAPEUTIC COMPOSITION OF AN INSULIN  
SENSITIZER AND A PEPTIDE FRACTION

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**RESPONSE TO OFFICE ACTION**

April 9, 2009

**Mail Stop Amendment**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

In response to the Office Action mailed March 4, 2009, withdrawal of the claim rejections and removal of the paper from the file wrapper are respectfully requested.

Reconsideration and allowance are respectfully requested. Claims 1, 3, 5, 7-9, 11-12, 14-21 and 23-26 are pending. The claims listed on the Office Action Summary (i.e., claims 1-23) are incorrect. It was also incorrectly stated on page 2 of the Office Action, "Claim 1, the linking claim, is the only claim under examination, as drawn to either SEQ ID NO: 20 or SEQ ID NO: 24." No sequence identifiers are recited in the present specification and Applicants' disclosure does not contain a sequence listing. This Office Action is clearly incorrect and was mailed in error for this application.

A telephone call was made on March 6, 2009 to the Examiner asking for clarification. The undersigned pointed out the inconsistencies between the claim rejections and the pending claims. He suggested that the claim rejections should be withdrawn because they do not apply to the present claims. In returning the aforementioned message left on the Examiner's voicemail, he promised to review the case but no further response has been received by the undersigned. From a review this morning of PAIR, it does not appear that a corrected Office Action has been mailed.

Therefore, Applicants request that the claim rejections be withdrawn and this Office Action be removed from the file wrapper.

In any calculation of patent term adjustment, Applicants submit that the period from March 4, 2009 to the mailing of a correct Office Action should be considered as the PTO's delay. Acknowledgment is requested that PTA will be calculated in this manner.

Having fully responded to the pending Office Action, Applicants submit that the claims are in condition for allowance and earnestly solicit an early Notice to that effect. The Examiner is invited to contact the undersigned if any further information is required.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

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